

## **HALL & ASSOCIATES**

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October 25, 2013

### **VIA ONLINE FOIA SYSTEM**

Regional Freedom of Information Officer  
U.S. EPA, Region II  
290 Broadway, 26<sup>th</sup> Fl.  
New York, NY 10007-1866  
Fax: (212) 637-5046  
E-mail: [r2foia@epa.gov](mailto:r2foia@epa.gov)

**RE: Freedom of Information Act Request for Records Associated with Iowa League of Cities v. EPA decision**

To Whom This May Concern:

This is a request for public records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as implemented by the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 2. For purposes of this request, the definition of "records" includes, but is not limited to, documents, letters, memoranda, notes, and e-mail messages sent by EPA personnel from EPA accounts and any private accounts regarding EPA matters.

On March 25, 2013, the Court of Appeals for the Eighth Circuit issued a decision in the *Iowa League of Cities v. EPA*, 711 F.3d 844 (8th Cir. 2013) vacating the mixing zone rule contained in the June 2011 letter and the blending rule contained in the September 2011 letter. The court held that the bacteria mixing zone prohibition in primary contact recreation waters "eviscerate[d] state discretion" to utilize such mixing zones and, therefore, constituted a revised rule that did not go through proper rulemaking procedures. *Id.* at 874. Additionally, the court found EPA's blending prohibition was both procedurally and substantively improper as it was "irreconcilable with both the secondary treatment rule and the bypass rule" (*id.* at 875) and "exceeds EPA's statutory authority" under the CWA. *Id.* at 877.

This request seeks any records containing the following:

1. Any communication between EPA Headquarters and EPA Regional offices discussing the impact of the *Iowa League of Cities* decision on permitting and enforcement actions;
2. Any communication between EPA Regional offices and state entities discussing whether the *Iowa League of Cities* decision should be or should not be followed in future regulatory actions; and,
3. Any EPA legal or regulatory analysis regarding the effect of the *Iowa League of Cities* decision including whether the decision will be followed by all EPA Regions nationwide.

Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$250.00. Please duplicate the records that are responsive to this request and send them to the undersigned at the above address. If any requested records are withheld based upon any asserted privilege, please identify the basis for the non-disclosure. If the Agency lacks records responsible to a particular item, please note that in the response.

If you have any questions regarding this request, please do not hesitate to contact this office so as to ensure that agency resources are conserved and only the necessary documents are reproduced.

Sincerely,

/s/ John C. Hall

JOHN C. HALL